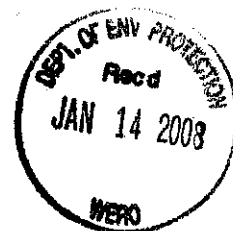




January 8, 2008

DEBP0126
File: 4441



Massachusetts Department of Environmental Protection
Bureau of Waste Prevention
Western Region
436 Dwight Street
Springfield, MA 01103

Attention: Saadi Motamedi
Section Chief, Compliance & Enforcement

Subject: Response to Notice of Noncompliance (NON-WE-08-9003-27A)

Dear Mr. Motamedi:

Berkshire Power has received the Notice of Noncompliance which was issued by your office on January 3, 2008. Please be advised that Berkshire Power maintains high regard for its environmental and regulatory responsibilities, and strives to exceed its compliance obligations. As detailed in your letter, the compliance issues were generated during a routine site visit by Mr. Daniel Balboni, on August 30, 2007. I am surprised that these issues formed the basis for, and evolved into, noncompliances without further feedback from Mr. Balboni. My understanding at the time was that any points that Mr. Balboni made were either recommendations or requests for further information. I expected that further dialogue and/or data transfer would continue. If I had known that this was not going to be the case, I would have made sure that Mr. Balboni received everything necessary, on the day of his visit. Please find the following responses to each of the nine compliance issues.

- 1.) On August 30, 2007, there were in fact no baffle balls in the aqueous ammonia secondary containment area, as witnessed by Mr. Balboni. I explained to Mr. Balboni that the plastic baffle balls had deteriorated due to ultraviolet exposure over the last eight years. I explained to Mr. Balboni that since the balls had collapsed and were useless, they were recently removed and new baffle balls were on order. Also, I detailed at the time, that the new baffle balls consist of HDPE which is resistant to sunlight and should not degrade. I believed that Berkshire Power's actions were appropriate and I presumed at the time that Mr. Balboni felt the same. Please be advised that the new HDPE baffle balls have been in place, and were installed as soon as they arrived.

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- 2.) The issue description states that the Facility was not conducting formal annual training for the SCR and ammonia handling system. Please be advised that all of the plant's operations and maintenance personnel have been trained by the original equipment manufacturer, in addition to in-house refresher training. Plan approval 1-X-95-093 requires that all personnel be trained to operate the facility and control equipment in accordance with vendor specifications; as stated, this is the case. Furthermore, plan approval states that persons responsible for the operation of the ammonia handling and SCR control system shall sign a statement that they have read and understand the approved standard operating and standard maintenance procedures. Brian Sharkey, Berkshire Power's O&M Manager is responsible for ammonia handling and the SCR system, and as such, has annually signed statements affirming understanding of the approved standard operating and maintenance procedures. As all personnel are trained, and the responsible individual annually provides a signed affirmation, Berkshire Power believes compliance has been appropriately achieved.
- 3.) This issue states that the Facility failed to post a "WASTE OIL" sign in the waste oil accumulation area. Please be advised that the waste oil area noted is a satellite accumulation area. The waste oil area noted was/is in an approved containment device with weatherproof access and secondary containment. However, since it is a satellite area, it did not require the signage. However, plant personnel were immediately instructed, to place an appropriate "WASTE OIL" sign on the outside of the enclosure, in any case. This was done on August 30th, the afternoon of Mr. Balboni's visit. The main waste oil accumulation area is at the base of the stack. The area is enclosed within a steel, Factory Mutual (FM) approved, hazardous material storage building, manufactured by HAZ-STOR. This structure is equipped with secondary containment, an ANSUL fire protection system, and audible alarm. It has always had the appropriate "WASTE OIL" sign affixed to the outside.
- 4.) This issue relates to a container of "waste oil" which was observed without the word "TOXIC" on its label. The container observed was among other properly labeled containers, inside an approved outdoor plastic shelter with insitu secondary containment. The container's product was unused oil and had recently (within a day), been placed in the approved enclosure. Berkshire Power performs weekly checks of all waste products to ensure that labeling is correct and that the containers are sound, and that product is properly and safely stored. Mr. Balboni's inspection was a day before the Berkshire Power internal weekly inspection. As this was the case, the weekly routine internal inspection had yet to be performed, but would have addressed this issue. This is customarily the case. Additionally, the enclosure is normally locked. As a mechanic was performing grease rounds during this inspection, the enclosure was left unlocked. It is Berkshire Power's policy to always store waste oil product properly, and will continue to do so, with even greater daily attention.

- 5.) The issue cites that the Facility failed to provide and/or maintain an adequate O&M manual for its industrial wastewater pretreatment system. Berkshire Power has, in fact, maintained all of the required documentation necessary for full compliance to 314 CMR 7.05(2)(g). Berkshire Power possesses O&M manuals for all of its systems. During Mr. Balboni's visit individual components of the information were reviewed as requested. As suggested by Mr. Balboni, any additional information that was required for the Mass DEP would be requested at a later date. This being the case, it did not seem imperative that Berkshire Power review its entire O&M manual for the industrial wastewater pretreatment system with Mr. Balboni during the visit. The complete O&M manual is enclosed in this transmittal.
- 6.) The issue states that Berkshire Power failed to maintain a calibration log for its pH meter. This is not the case. Berkshire Power maintains a calibration log for its effluent pH meter. It is documented in both the plant-wide instrument calibration records and a pH probe/meter specific log. Additionally, Berkshire Power maintains and submits effluent pH monitoring logs, which include calibration records in its monthly Self Monitoring Report (SMR) in accordance with its Industrial Wastewater Discharge Permit to the Springfield Water and Sewer Commission. Please find those records in the attached transmittal. It was my understanding that this data was reviewed by Mr. Balboni during his visit.
- 7.) This issue cites Berkshire Power as not maintaining the temperature of effluent samples at 6 degrees C, or less. Please be advised that our lab, Spectrum Analytical is ½ mile from the Berkshire Power facility. The Berkshire Power technician responsible for sample collection and transport has been directed that once the sample is removed from the sample storage refrigerator it must be delivered to the lab immediately. That has always been our practice. When a sample is received by the lab outside of the accepted temperature tolerance, the lab will request another sample before processing. Also of note, in addition to the Berkshire Power sample storage refrigerator, the American Sigma automatic sampler is refrigerated and very well maintained. Please be advised that Mr. Balboni reviewed a chain-of-custody sheet which showed that the temperature of a given effluent sample as received by the lab was marginal. At which point, he suggested that we find additional ways to ensure that the sample is delivered to the lab with a greater margin for error. Since Mr. Balboni's visit, the sample is being transported in a cooler, and the lab has been reminded to never process a sample if the sample is delivered at a temperature greater than 6 degrees C.

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- 8.) This issue contends that Berkshire Power has failed to conduct pH monitoring in accordance with 40 CFR 136, in that daily calibrations are required, while Berkshire Power performs weekly calibrations. Please be advised, that Berkshire Power has always, and will continue to abide by its Industrial Wastewater Discharge Permit (IWDP #24200). This requires pH calibration intervals which are prescribed by the manufacturer's recommendations, which are weekly. Therefore, the facility has always performed weekly pH meter calibrations. Please be advised that Berkshire Power can not find any language in 40 CFR 136 which would require the facility to perform daily calibrations. I have also consulted with the Springfield Water and Sewer Commission – Industrial Pretreatment, and collectively we can not find a requirement for daily calibration for a facility such as Berkshire Power. If Mass DEP now requires daily field calibrations, then the Springfield Water and Sewer Commission will have to amend Berkshire Power's IWDP permit.

Please be advised, that with consideration of the abovementioned facts, Berkshire Power respectfully contends that these noncompliances are not justified, and hereby requests that your office reconsider these positions. Thank you for your consideration, and if questions or comments arise, please never hesitate to contact me at anytime.

Sincerely,



Frank Basile
General Manager

FMB:sms
Enclosures